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ORDINANCE NO. 04-007

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AN ORDINANCE AMENDING THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE BY AMENDING SECTION 11.13.00, ENFORCEMENT OF CODE PROVISIONS, BY AMENDING SECTION 11.13.01 TO PROVIDE FOR CLARIFICATION OF BOARD ENFORCEMENT RESPONSIBILITIES FOR THE VARIOUS PROVISION OF THIS CODE; BY DELETING SECTION 11.13.03 ENFORCEMENT PROCEDURES FOR CODE ENFORCEMENT BOARD AND BY AMENDING SECTION 11.13.04 OTHER PENALTIES AND REMEDIES TO CLARIFY THE INITIATION OF OTHER ENFORCEMENT PROCEEDINGS; PROVIDING GENERAL AUTHORIZATION FOR THE COMMUNITY DEVELOPMENT DIRECTOR TO MAKE ALL NECESSARY ADJUSTMENTS TO THE SECTION REFERENCES THROUGH THE LAND DEVELOPMENT CODE AS A RESULT OF THIS GENERAL TEXT AMENDMENT; PROVIDING CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR ADOPTION AND PROVIDING FOR CODIFICATION

WHEREAS, the Board of County Commissioners of St. Lucie County, Florida, has made the following determinations:

1. On August 1, 1990, the Board of County Commissioners of St. Lucie County, Florida, adopted the St. Lucie County Land Development Code.
2. The Board of County Commissioners has adopted certain amendments to the St. Lucie County Land Development Code, through the following Ordinances

| | | | |
|----------|-------------------|----------|-------------------|
| 91-003 - | March 14, 1991 | 91-009 - | May 14, 1991 |
| 91-021 - | November 7, 1991 | 92-017 - | June 2, 1992 |
| 93-001 - | February 16, 1993 | 93-003 - | February 16, 1993 |
| 93-005 - | May 25, 1993 | 93-006 - | May 25, 1993 |
| 93-007 - | May 25, 1993 | 94-007 - | June 22, 1994 |

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Refer to: Co. Atty

JOANNE HOLMAN, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
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|----------|-------------------|----------|------------------|
| 94-018 - | August 16, 1994 | 94-021 - | August 16, 1994 |
| 95-001 - | January 10, 1995 | 96-010 - | August 6, 1996 |
| 97-001 - | March 4, 1997 | 97-009 - | October 7, 1997 |
| 97-003 - | September 2, 1997 | 99-001 - | February 2, 1999 |
| 99-002 - | April 6, 1999 | 99-03 - | August 17, 1999 |
| 99-004 - | August 17, 1999 | 99-005 - | July 20, 1999 |
| 99-015 - | July 20, 1999 | 99-016 - | July 02, 1999 |
| 99-017 - | September 7, 1999 | 99-018 - | November 2, 1999 |
| 00-010 - | June 13, 2000 | 00-011 - | June 13, 2000 |
| 00-012 - | June 13, 2000 | 00-013 - | June 13, 2000 |
| 01-003 - | December 18, 2001 | 02-005 - | June 24, 2002 |
| 02-009 - | March 5, 2002 | 02-020 - | October 15, 2002 |
| 02-029 - | October 15, 2002 | 03-005 - | October 7, 2003 |
| 04-002 - | January 20, 2004 | | |

3. On March 18, 2004, the Local Planning Agency/Planning and Zoning Commission held a public hearing on the proposed ordinance after publishing notice in the Port St. Lucie News and the Tribune at least ten (10) days prior to the hearing and recommended that the proposed ordinance be approved.
4. On April 6, 2004, this Board held its first public hearing on the proposed ordinance, after publishing a notice of such hearing in the Port St. Lucie News and the Tribune on March 24, 2004.
5. On April 20, 2004, this Board held its second public hearing on the proposed ordinance, after publishing a notice of such hearing in the Port St. Lucie News and the Tribune on April 7, 2004.
6. The proposed amendments to the St. Lucie County Land Development Code are consistent with the general purpose, goals, objectives and standards of the St. Lucie County Comprehensive Plan and are in the best interest of the health safety and public welfare of the citizens of St. Lucie County, Florida.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

PART A.

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1
2 THE SPECIFIC AMENDMENTS TO THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE
3 TO READ AS FOLLOWS, INCLUDE:
4
5

6 *****

7
8 **CHAPTER XI**
9 **ADMINISTRATION AND ENFORCEMENT**

10 **11.13.00 ENFORCEMENT OF CODE PROVISIONS**

11
12 **11.13.01 GENERALLY**

13
14 **A. ~~AUTHORITY~~ Enforcement by Code Enforcement Board**

15
16 Unless otherwise stated in this Code, the St. Lucie County Code Enforcement Board, as
17 described more fully in sections 1-2-19 through 1-2-27.5, St. Lucie County Code and Compiled
18 Laws, shall enforce the provisions of this Code according to the procedures set forth in these
19 Sections.

20
21 **~~1. B.~~ Enforcement by Environmental Control Hearing Board**

22
23 Enforcement proceedings with respect to the following provisions shall be through the
24 Environmental Control Hearing Board in accordance with the procedures set forth in Section
25 11.13.02 of this Code:

- 26
27 a. Wellfield Protection (Sections 6.03.00 and 11.05.10)
28 b. Wastewater and Sewage Disposal Compliance (Sections 7.08.03 and 11.05.09)
29 c. Wetlands Protection (Section 6.02.03)
30 d. Native Upland Habitat Protection (Section 6.04.01)
31 e. Land clearing and yard trash recycling operations (7.10.12(c))
32 f. Standard Housing Code (Section 13.08.00)
33 g. All other codes, statutes, rules, regulations adopted by reference hereunder
34 pursuant to Section 11.13.02(L).

35
36 ~~2. Enforcement proceedings with respect to all provisions of this Code, except those listed~~
37 ~~in paragraph 1 above shall be in accordance with Section 11.13.03.~~

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1 11.13.02 ENFORCEMENT PROCEDURES FOR ENVIRONMENTAL CONTROL PROVISIONS

2
3 *no changes to this section*

4
5 ~~11.13.03 ENFORCEMENT PROCEDURES FOR CODE ENFORCEMENT BOARD~~

6
7 Unless otherwise stated, the Code Enforcement Board, as described more fully in sections 1-2-
8 19 through 1-2-27.3, St. Lucie County Code and Compiled Laws, shall enforce the provisions of
9 this Code according to the procedures below.

10
11 A. ~~It shall be the duty of the Code Enforcement Officer to initiate enforcement~~
12 ~~proceedings of this Code and other codes as specified in the St. Lucie County Code and~~
13 ~~Compiled Laws. No member of the Code Enforcement Board shall have the power to initiate~~
14 ~~such enforcement proceedings.~~

15
16 B. ~~Except as provided in subsection C and D, if a violation of the codes is found, the Code~~
17 ~~Enforcement Officer shall notify the violator and give him a reasonable time to correct the~~
18 ~~violation. Should the violation continue beyond the time specified for correction, the Code~~
19 ~~Enforcement Officer shall notify the Code Enforcement Supervisor and request a hearing. The~~
20 ~~Code Enforcement Board shall schedule a hearing and a written notice of such hearing shall be~~
21 ~~hand delivered or mailed as provided in subsection N, to said violator. At the option of the~~
22 ~~Board, notice may additionally be served by publication as provided in Section 11.00.03. If the~~
23 ~~violation is corrected and then recurs, or if the violation is not corrected by the time specified~~
24 ~~for correction by the Code Enforcement Officer, the case may be presented to the Board even~~
25 ~~if the violation has been corrected prior to the Board hearing, and the notice shall so state.~~

26
27 C. ~~If the Code Enforcement Officer has reason to believe a violation presents a serious~~
28 ~~threat to the public health safety and welfare or if the violation is irreparable or irreversible~~
29 ~~in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator~~
30 ~~and may immediately notify the Code Enforcement Board and request a hearing.~~

31
32 D. ~~If a repeat violation is found, the Code Enforcement Officer shall notify the violator~~
33 ~~but is not required to give the violator a reasonable time to correct the violation. The Code~~
34 ~~Enforcement Officer, upon notifying the violator of a repeat violation shall notify the Code~~
35 ~~Enforcement Supervisor and request a hearing. The Code Enforcement Board shall provide~~
36 ~~notice to the violator pursuant to subsection N or O. The case may be presented to the Code~~
37 ~~Enforcement Board even if the repeat violation has been corrected prior to the Board hearing,~~
38 ~~and the notice shall so state.~~

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2 ~~E. Upon the request of the Code Enforcement Officer, or at such other times as may be~~
3 ~~necessary, the chairman of the Code Enforcement Board may call hearings of the Board.~~
4 ~~Hearings may also be called by written notice signed by at least three (3) members of the~~
5 ~~Board. At any hearing the Board may set a future hearing date. Minutes shall be kept of all~~
6 ~~hearings by the Board, and all hearings and proceedings shall be open to the public.~~

7
8 ~~F. Each case before the Code Enforcement Board shall be presented by the Code~~
9 ~~Enforcement Supervisor, or his designee.~~

10
11 ~~G. The Code Enforcement Board shall proceed to hear all cases on the agenda for that day.~~
12 ~~All testimony shall be under oath and shall be recorded. The Board shall take testimony from~~
13 ~~the Code Enforcement Officer and alleged violator. Formal rules of evidence shall not apply,~~
14 ~~but fundamental due process shall be observed and shall govern the proceedings.~~

15
16 ~~H. At the conclusion of the hearing, the Code Enforcement Board shall issue findings of~~
17 ~~fact, based on evidence of record and conclusions of law, and shall issue an order affording that~~
18 ~~proper relief consistent with powers the powers granted herein. The findings shall be by motion~~
19 ~~approved by a majority of those members present and voting, except that at least four (4)~~
20 ~~members of the Board must vote for an action to be official. The order may included a notice~~
21 ~~that it must be complied with by a specific date, and that a fine may be imposed if the order is~~
22 ~~not complied with by such date. A certified copy of such order may be recorded in the public~~
23 ~~records and shall constitute notice to any subsequent purchasers, successors in interest, or~~
24 ~~assigns if the violation concerns real property, and the findings therein, shall be binding upon~~
25 ~~the violator and, if the violation concerns real property, any subsequent purchasers successors~~
26 ~~in interest or assigns. If the order is recorded in the public records, pursuant to this~~
27 ~~subsection and the order is complied with by the date specified in the order, the Board shall~~
28 ~~issue an order acknowledging compliance, that shall be recorded in the public records. A hearing~~
29 ~~is not required to issue such order or acknowledging compliance.~~

30
31 ~~I. The Code Enforcement Board, upon notification by the Code Enforcement Officer that~~
32 ~~a previous order of the Board has not been complied with by the set time or upon finding that a~~
33 ~~repeat violation has been committed, may order the violator to pay as fine in an amount~~
34 ~~specified in subsection J, for each day the violation continues past the date set by the Board~~
35 ~~for compliance or, the in the case of repeat violation, for each day the repeat violation~~
36 ~~continues past the date of notice to the violator of the repeat violation. If a finding of a~~
37 ~~violation or a repeat violation has been made as provided in this part, a hearing shall not be~~
38 ~~necessary for the issuance of the order imposing the fine.~~

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1
2 ~~J. AMOUNT OF FINES~~

3
4 1. ~~A fine imposed pursuant to subsection I shall not exceed \$250 per day for the~~
5 ~~first violation, and shall not exceed \$500 per day for a repeat violation, except that, if~~
6 ~~after due notice and hearing, the Code Enforcement Board finds a violation to be~~
7 ~~irreparable or irreversible in nature, the Code Enforcement Board may impose a fine not~~
8 ~~to exceed \$5,000 per cited violation.~~

9
10 2. ~~In determining the amount of the fine, if any, the Code Enforcement Board shall~~
11 ~~consider the following factors:~~

12
13 a. ~~the gravity of the violation;~~

14 b. ~~any actions taken by the violator to correct the violation; and,~~

15 c. ~~any previous violations committed by the violator.~~

16
17 3. ~~The Code Enforcement Board may reduce a fine imposed by this Section.~~

18
19
20
21 ~~K. A certified copy of an order imposing fine may be recorded in the public records and~~
22 ~~shall thereafter constitute a lien against the land on which the violation exists and upon any~~
23 ~~real or personal property owned by the violator. Upon petition to the Circuit Court, such order~~
24 ~~may be enforced in the same manner as a court judgment by the sheriffs of the state, including~~
25 ~~levy against the personal property, but such order shall not be deemed to be a court judgment~~
26 ~~except for enforcement purposes. A fine imposed pursuant to this Section shall continue to~~
27 ~~accrue until the violator comes into compliance or until judgment is rendered in a suit to~~
28 ~~foreclose on a lien filed pursuant to this section, whichever occurs first. After three (3)~~
29 ~~months from the filing of any such lien which remains unpaid, the Code Enforcement Board may~~
30 ~~authorize the County Attorney to foreclose on the lien. No lien created pursuant to the~~
31 ~~provisions of this section may be foreclosed on real property which is a homestead under~~
32 ~~Section 4, Article X of the State Constitution.~~

33
34 ~~L. No lien provided by this article shall continue for a period longer than twenty (20) years~~
35 ~~after the certified copy of an order imposing a fine has been recorded, unless within that time~~
36 ~~an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an~~
37 ~~action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a~~
38 ~~reasonable attorney's fee, that it incurs in the foreclosure and all such costs shall be included~~

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1 in any final foreclosure order. The continuation of the lien effected by the commencement of
2 the action shall not be good against creditors or subsequent purchasers for valuable
3 consideration without notice, unless a notice of lis pendens is recorded.

4
5 ~~M. An aggrieved party, including the Board of County Commissioners, may appeal a final~~
6 ~~administrative order of the Code Enforcement Board to the Circuit Court. Such appeal shall~~
7 ~~not be a hearing de novo, but shall be limited to appellate review of the record created before~~
8 ~~the Board. An appeal shall be filed within thirty (30) days of the execution of the order to be~~
9 ~~appealed.~~

10
11 ~~N. All notices required by this section shall be provided to the alleged violator by certified~~
12 ~~mail, return receipt requested; by hand delivery by the Sheriff or other law enforcement~~
13 ~~officer, Code Enforcement Officer or other person designated by the Board of County~~
14 ~~Commissioners; or by leaving the notice at the violators usual place of residence with any~~
15 ~~person residing therein who is above fifteen (15) years of age and informing such person of the~~
16 ~~contents of the notice.~~

17
18 ~~O. In addition to providing notices as set forth in subsection N, at the option of the code~~
19 ~~enforcement board, notice may also be served by publications as follows:~~

20
21 ~~1. Such notice shall be published once during each week for Four (4) consecutive~~
22 ~~weeks, (four (4) publications being sufficient) in a newspaper of general~~
23 ~~circulation in the County. The newspaper shall meet the requirements are~~
24 ~~prescribed under Chapter 50, Florida Statutes, for legal advertisements.~~

25
26 ~~2. Proof of publication shall be made as provided in Chapter 50.041 and 50.051,~~
27 ~~Florida Statutes.~~

28
29 ~~P. Notice by publication may run concurrently with, or may follow, an attempt or attempts~~
30 ~~to provide notice by hand delivery or by mail as required under subsection N.~~

31
32 ~~Q. Evidence that an attempt has been made to hand deliver or mail notice as provided in~~
33 ~~subsection N, together with proof of publication as provided in subsection O, shall be sufficient~~
34 ~~to show that the notice requirements have been met, without regard to whether or not the~~
35 ~~alleged violator actually received such notice.~~

36
37 ~~R. Nothing in this section shall prohibit the Board of County Commissioners from~~
38 ~~enforcing its codes by any other means.~~

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11.13.043 OTHER PENALTIES AND REMEDIES

A. ~~GENERALLY~~

Nothing in this section shall prohibit the Board of County Commissioners from enforcing its codes by any other means. If the Public Works Director, Community Development Director or other appropriate county department head, in consultation with the County Attorney, determines that the code enforcement or environmental control hearing board processes delineated above would be an inadequate response to a given violation, the ~~Director~~ County Commission may pursue the following penalties and remedies, as provided by law:

1. CIVIL REMEDIES

If any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained or any building, structure, land, or water is used in violation of this Code, the ~~Director~~ County Commission, through the County Attorney, may institute any appropriate civil action or proceedings in any court to prevent, correct, or abate the violation.

2. CRIMINAL PENALTIES

Any person who violates any provision of this Code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART C. SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall beheld to be inapplicable to any person, property,

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1 or circumstance, such holding shall not affect its applicability to any other person, property, or
2 circumstance.

3
4 **PART D. APPLICABILITY OF ORDINANCE.**

5
6 This ordinance shall be applicable in the unincorporated area of St. Lucie County.

7
8 **PART E. FILING WITH THE DEPARTMENT OF STATE.**

9
10 The Clerk be and is hereby directed forthwith to send a certified copy of this ordinance to
11 the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee,
12 Florida 32304.

13
14 **PART F. EFFECTIVE DATE.**

15
16 This ordinance shall take effect upon filing with the Department of State.

17
18 **PART G. ADOPTION.**

19
20 After motion and second, the vote on this ordinance was as follows:

| | | |
|----|---------------------------------|--------|
| 21 | | |
| 22 | Chairman Paula Lewis | AYE |
| 23 | | |
| 24 | Vice Chairman John D. Bruhn | AYE |
| 25 | | |
| 26 | Commissioner Doug Coward | Absent |
| 27 | | |
| 28 | Commissioner Cliff Barnes | AYE |
| 29 | | |
| 30 | Commissioner Frannie Hutchinson | AYE |
| 31 | | |

32 **PART H. CODIFICATION.**

33
34 Provisions of this ordinance shall be incorporated in the St. Lucie County Land Development
35 Code, and the word ordinance may be changed to section, article, or other appropriate word,
36 and the sections of this ordinance may be renumbered or relettered to accomplish such
37 intention; provided, however, that parts B through H shall not be codified.
38

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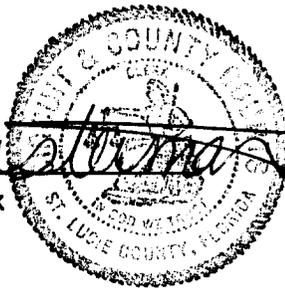
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PASSED AND DULY ENACTED this 20th day of April, 2004.

BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA

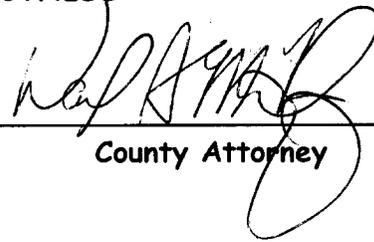
ATTEST:


Deputy Clerk



BY: 
Chairman

APPROVED AS TO FORM AND
CORRECTNESS:

BY: 
County Attorney

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